

Office Box 96670, Washington, DC 20090 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT:

Patricia Rawlings (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-445, adopted September 20, 1989, and released October 11, 1989. The full text of the Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-24416 Filed 10-16-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-446, RM-6834]

Radio Broadcasting Services; Trenton, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by The Wireless Group, Inc., licensee of Station WLOT(FM), Channel 249A, Trenton, Tennessee, proposing the substitution of Channel 248C3 for Channel 249A at Trenton, and the modification of Station WLOT(FM)'s license to specify operation on the higher powered channel, as that community's first wide coverage area FM service. A site

restriction of 10.9 kilometers (6.8 miles) north of Trenton is required. The coordinates are 36-04-30 and 88-56-00.

DATES: Comments must be filed on or before December 4, 1989, and reply comments on or before December 19, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Carlton Veirs, President, The Wireless Group, Inc., P.O. Box 198, 42 South Washington Avenue, Brownsville, Tennessee 38012 (Petitioner).

FOR FURTHER INFORMATION CONTACT:

Patricia Rawlings (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-446, adopted September 20, 1989, and released October 11, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

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For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-24418 Filed 10-16-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB23

Endangered and Threatened Wildlife and Plants; Proposed Revision of Special Regulations for the Grizzly Bear

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to revise the special regulations for the threatened grizzly bear to enlarge the types of persons permitted to take nuisance bears. The proposal would allow specially authorized persons to take dangerous or incorrigible nuisance bears that would normally be removed by State or Federal authorities to minimize continued conflict and to prevent human injury. Removal would be accomplished through a State-administered hunt restricted to a specific area encompassing the Idaho, Montana, and Wyoming portions of the Yellowstone ecosystem outside Yellowstone and Grand Teton National Parks. The proposal allows greater flexibility in the management of grizzly bears without increasing the number of bears normally removed from this area. The Service seeks data and comments from the public.

DATES: Comments from all interested parties must be received by December 18, 1989. Public hearing requests must be received by December 1, 1989.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Grizzly Bear Recovery Coordinator, U.S. Fish and Wildlife Service, NS 312, University of Montana, Missoula, Montana 59812. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator (see ADDRESSES above, 406/329-3223 or FTS 585-3223).

SUPPLEMENTARY INFORMATION:

Background

The grizzly bear (*Ursus arctos*) originally occurred throughout western North America from Alaska to Mexico. Its populations in the conterminous United States are now restricted to northeastern and northwestern Washington, northern and eastern

Idaho, western Montana, and northwestern Wyoming. Fewer than 1,000 individuals are thought to remain in these areas, with the majority in the Northern Continental Divide ecosystem in northwest Montana and the Yellowstone ecosystem in northwestern Wyoming and adjacent portions of Montana and Idaho. In the **Federal Register** of July 28, 1975 (40 FR 31734), the Service determined threatened status for the grizzly in the conterminous United States, pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*). Special regulations were issued in conjunction with that determination and were incorporated into 50 CFR Part 17.40(b). These rules provided general protection for the species but allowed taking under certain conditions to defend human life, to remove nuisance animals, and to carry out research. In addition, a limited sport hunting season was authorized in a specified portion of northwestern Montana.

The present proposal would modify the portion of the special rule addressing removal of nuisance bears to include specially authorized persons among those authorized to remove dangerous or incorrigible nuisance bears in the Yellowstone area. Removal would be accomplished by means of a supervised hunt administered by State game agencies. Hunting for grizzly bears has not been permitted in the Yellowstone ecosystem since 1974 (Montana portion) and 1975 (Wyoming portion). The State of Wyoming also limited the baiting of black bears for hunting in portions of grizzly bear range outside Yellowstone National Park in 1982 because of concern about the number of accidental grizzly kills by black bear hunters.

The rationale for the proposed change is as follows: Under the existing special rule, a grizzly posing a serious threat to human safety can be legally taken by a person in self-defense or in defense of others. A dangerous bear can also be controlled by government officials. However, only State, Federal or Tribal officials are presently allowed to take a grizzly bear that is potentially dangerous or that causes significant property loss. Upon closer examination, the Service now recognizes that while it is absolutely necessary and advisable for authorized wildlife officials to make the crucial management decision on whether to relocate or remove a depredating or potentially dangerous grizzly, it is not necessary for the conservation of the grizzly to restrict the act of removal to Federal, State, or Tribal authorities only.

Therefore, new regulatory language is suggested to allow nuisance bears that would normally be removed by State or Federal officials to be taken by specially authorized persons under the supervision of State game management authorities in portions of the Yellowstone area outside Yellowstone and Grand Teton National Parks. Control of nuisance bears within National Parks would remain the responsibility of the National Park Service. The change would not result in any additional bears being taken in the Yellowstone ecosystem.

Data on human-caused grizzly bear mortality in the Yellowstone ecosystem from 1980 to 1987 show that a total of 22 nuisance grizzly bears have been removed from the ecosystem over the last 8 years, or an average of 2.8 per year. Of this total, 12 were removed from outside Yellowstone and Grand Teton National Parks. Therefore, the average number of nuisance bears removed from the area subject to this proposed rule change was 1.5 bears per year from 1980-1987. Since no change to the criteria used to evaluate nuisance bears will result from this proposed rule change, the average number of dangerous and/or repeat offender nuisance bears taken over the last 8 years (1.5 bears/year) is an indicator of the number of bears expected to be taken in the future by specially authorized persons under this proposed rule change.

The criteria used to judge whether a bear is a nuisance or not and how and where taking of such animals can take place are specified in the Interagency Grizzly Bear Guidelines (Interagency Grizzly Bear Committee. 1986. Interagency Grizzly Bear Guidelines. 100 pp. Published by U.S. Forest Service and available from the Regional Forester, U.S. Forest Service, Federal Building, Missoula, Montana 59802). The Guidelines were made available for public comment, with portions published in the **Federal Register** on May 28, 1985 (50 FR 21696). In addition, 19 public meetings were held in Idaho, Montana, Washington, and Wyoming to explain and discuss the Guidelines. The final Guidelines were adopted on November 25, 1985 (51 FR 42863) by the Interagency Grizzly Bear Committee as the management document directing the management of the grizzly bear in the conterminous United States.

Under these Guidelines, decisions relating to the determination of nuisance bear status and the method used to control nuisance bears outside National Parks are made jointly by the Fish and Wildlife Service, the appropriate

Federal land management agency (e.g., Forest Service, Bureau of Land Management) and the appropriate State game agency (e.g., Montana, Wyoming, Idaho, Washington).

With regard to the determination of nuisance bear status, a grizzly bear may be determined to be a nuisance if any or all of the following conditions apply:

Condition A: The bear causes significant depredation to lawfully present livestock or uses unnatural food materials (human and livestock foods, garbage, home gardens, livestock carrion, and game meat in possession of man) which has been reasonably secured from the bear resulting in conditioning of the bear or significant loss of property.

Condition B: The bear has displayed aggressive (not defensive) behavior toward humans which constitutes a *demonstrable* immediate or potential threat to human safety and/or a minor human injury resulted from a human/bear encounter.

Condition C: The bear has had an encounter with people resulting in a *substantial* human injury or loss of human life.

If a grizzly is determined to be a nuisance bear using the criteria above, capture is usually attempted, and a decision is made within 24 hours on whether to relocate or remove (i.e., kill or transport to a zoo or research) the bear. The decision on the appropriate control action to be taken is made after evaluating several factors, such as the nature of the bear offense (Condition A, B, and/or C), the number and type of offenses the bear has previously committed, and the age and sex of the nuisance bear. A detailed explanation of the nuisance bear criteria and the process for determining the appropriate control action to be taken may be found in the Guidelines.

The supervised hunt would be conducted in accordance with Federal and State law and regulations. The selection of hunters would be at the discretion of the State game management authority. It is anticipated that hunters will be selected through a State-run lottery system, wherein persons interested in participating would submit their names and a list of potential hunters would be created through a random drawing, with the first name drawn at the top of the list. When a bear-human conflict arises that (a) is diagnosed in accordance with the Guidelines as a dangerous or incorrigible nuisance bear situation for which removal is the appropriate remedy, and (b) the circumstances are such that a supervised person is an

appropriate means of removal, the first person on the list will be contacted. If that person can arrive within 12–24 hours, he/she will be the person specially authorized to remove the dangerous or incorrigible bear. If not, the next person on the list will be offered the opportunity. The authorized person would be supervised and accompanied by State game management authorities.

Edible baits would not be permitted, as usage may attract nonnuisance bears, positively reinforce an association between humans and food rewards, and thereby create new nuisance bears. Nonedible baits or attractants would be permitted at the discretion of the State game management authority. Nonedible baits or attractants could attract bears to a well-chosen site where the hunter and accompanying State game official could clearly view each bear to determine whether it was the problem nuisance bear, without creating a human-food association. This would decrease the possibility that the wrong bear would be taken and improve the likelihood of a clean kill. Muzzle loaders and archery hunting would not be permitted, as these are less effective removal methods with greater safety risks for the hunter. After 5 years, a formal evaluation will be conducted to assess the number of bears taken, evaluate the impact of the rule change on grizzly recovery in the Yellowstone ecosystem, and to determine if refinements are necessary.

Questions may arise as to how the take of nuisance bears by specially authorized persons in the Yellowstone area differs from the Montana grizzly hunt authorized under 50 CFR 17.40(b)(1)(i)(e). The major differences are as follows:

—*Different wildlife management objectives.* The Montana hunt is essentially a limited sport hunt used to relieve population pressures and, in some instances, remove nuisance bears in the Northern Continental Divide ecosystem bear population. By tending to remove unwary bears more so than wary bears, the Montana hunt also acts as a general preventative to reduce potential bear/human conflicts in the area. In Yellowstone, the hunt would be an animal damage control hunt with the sole purpose of remedying or precluding significant human/bear conflicts by removing known incorrigible or dangerous nuisance bears.

—*Different, disjunct grizzly populations are affected:* The Montana hunt is restricted to the Northern Continental Divide population of grizzly bears in

northwest Montana. This grizzly population is entirely separate from the bear population in the Yellowstone ecosystem that would be affected by the proposed rule change.

—*Different regulatory systems are used, with different degrees of impact on affected bear populations:* The Montana hunt is regulated by a quota system that limits the number of bears that can be taken by humans in the ecosystem each year. If the known number of female grizzly bears killed or removed reaches 6, or if the known total number of all grizzlies removed or killed reaches 21 (including an allowance of 7 bears to represent annual unknown human-induced mortality), then the Montana hunt is terminated. Hence, the net effect would be that no more than 6 female grizzlies or 14 grizzlies overall can be removed by authorized hunters each year in the Northern Continental Divide ecosystem. In the Yellowstone area, hunting would be restricted to nuisance bears that would have been removed anyway by authorized government officials. The net effect of the proposed action would be that no additional bears would be taken.

—*Different levels of State supervision during the hunt:* Authorized hunters are not required to be accompanied by State game officials in the Montana hunt. In the Yellowstone area, specially authorized private persons will be accompanied by State game officials to ensure that only the specific offending bear is taken.

Environmental Analysis

A draft environmental assessment was prepared to provide a preliminary assessment of the impacts of the proposed rule, and is available at the office of the Grizzly Bear Recovery Coordinator (see ADDRESSES above). Copies may also be obtained by contacting: Chief, Division of Endangered Species and Environmental Contaminants (Mail Stop 60153). U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225, 303/236-7398 or (FTS) 776-7398. Final environmental impact analysis, including Section 7 consultation, will take place after the public comment period, but before the final rule is approved. Comments received will be used to develop the final rule and provide input for environmental impact analysis.

Author

The primary author of this proposed rule is Dr. Christopher Servheen, Grizzly Bear Recovery Coordinator, U.S. Fish

and Wildlife Service (see ADDRESSES above).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.40 is proposed to be amended by revising paragraph (b)(1)(i)(C) as follows:

§ 17.40 Special rules—mammals.

(b) * * *

(1) * * *

(i) * * *

(C) *Removal of nuisance bears.* (1) A grizzly bear constituting a demonstrable but nonimmediate threat to human safety or committing significant depredations to lawfully present livestock, crops, or beehives may be taken, but only if:

(i) It has not been reasonably possible to eliminate such threat or depredation by live-capturing and releasing unharmed in a remote area the grizzly bear involved; and

(ii) The taking is done in a humane manner by authorized Federal, State, or Tribal authorities, and in accordance with current interagency guidelines covering the taking of such nuisance bears, except as authorized under (b)(1)(i)(C)(2); and

(iii) The taking is reported within 5 days of occurrence to the appropriate Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section, and to appropriate State and Tribal authorities.

(2) *The Yellowstone Area.* (i) If it is not contrary to the laws of Idaho, Montana, or Wyoming, a specially authorized person may take grizzly bears fitting the definition of nuisance bears as defined in the Interagency Grizzly Bear Guidelines and fitting the criteria for bears to be removed from the area under said Guidelines. The determination of nuisance status for any grizzly bear to be taken in this area will be a joint decision made by authorized

representatives of the State game management agency, the U.S. Fish and Wildlife Service, and the land management agency involved as specified in the Interagency Grizzly Bear Guidelines.

(ii) Such taking shall be allowed in the area bounded by Interstate Highway 90 at its intersection with Interstate Highway 15 west of Butte, Montana, thence eastward along Interstate Highway 90 to Highway 310 at Laurel, Montana, thence south on Highway 310 to Highway 72 to Highway 120 to Cody, Wyoming, thence south on Highway 120 to Highway 20, thence west along the northern border of the Wind River Indian Reservation, south along the western border of the reservation, thence east along the southern border of the reservation to Highway 789, thence southeast on Highway 789 to Highway

28 to Highway 191, thence northwest on Highway 191 to Highway 189/191 to Hoback Junction, Wyoming, thence west on Highway 28 to Idaho Falls, Idaho, thence north on Interstate Highway 15 to the point of beginning, except that this area shall not include Yellowstone National Park or Grand Teton National Park.

(iii) Provided, that authorized persons will be supervised and accompanied by personnel of the State game management agency, the use of edible baits will not be permitted, the use of nonedible baits or attractants would be permitted at the discretion of the State game management authority, and muzzle loaders and archery hunting will not be permitted. No bears shall be taken by specially authorized persons in the Yellowstone area under this regulation that would not otherwise be

taken as nuisance bears by authorized State or Federal authorities under the Interagency Grizzly Bear Guidelines.

(iv) Provided further, that any legal taking of a grizzly bear in the above-described area shall be reported within 48 hours of occurrence to the appropriate State authorities, and within 5 days of occurrence to the appropriate Assistant Regional Director, Division of Law Enforcement, U.S. Fish and Wildlife Service, as indicated in paragraph (b)(1)(i)(B) of this section. A formal evaluation will be conducted after 5 years.

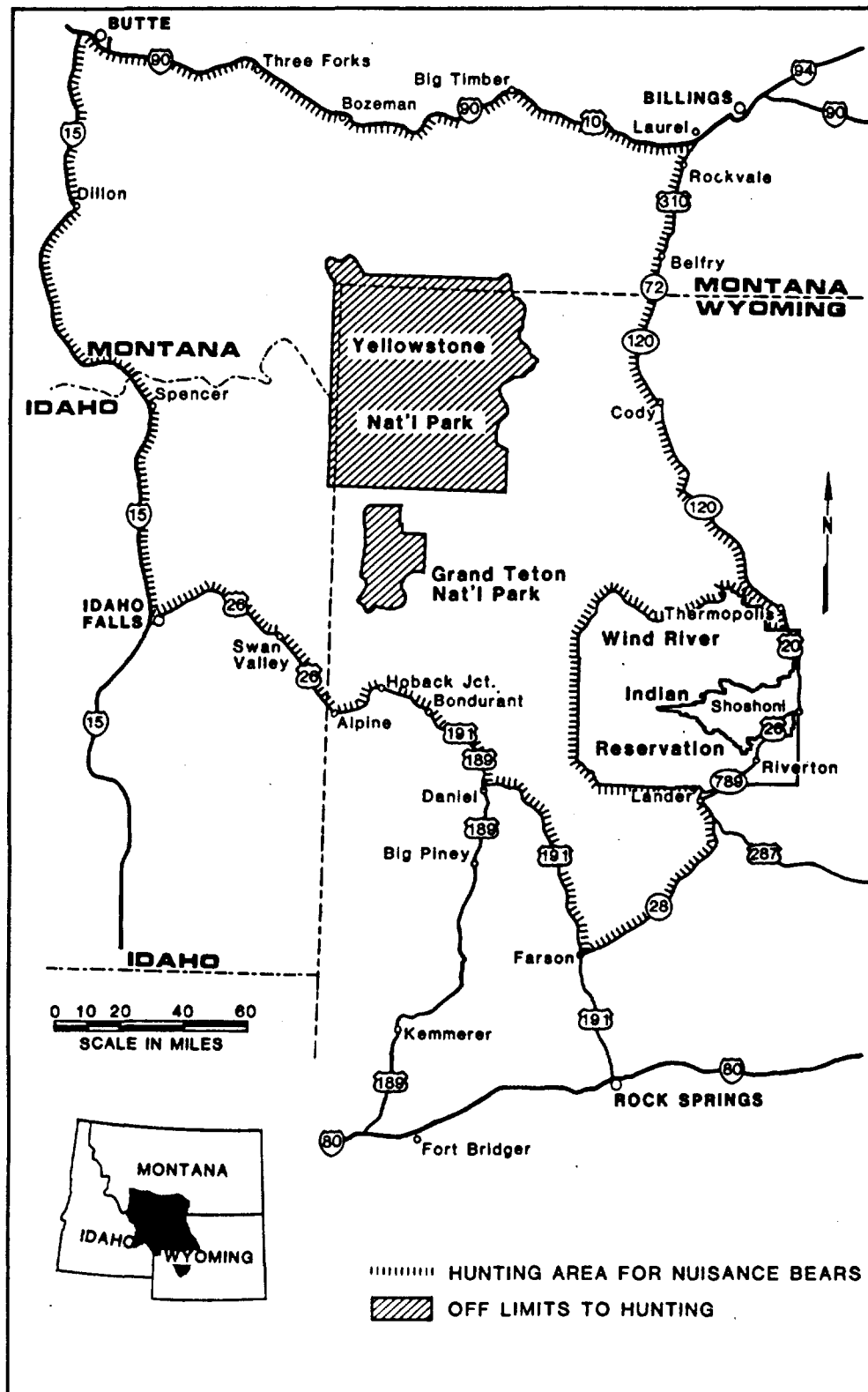
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Dated: August 31, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

BILLING CODE 4310-55-M



Grizzly Bear

Nuisance bear removal - Yellowstone area

50 CFR Part 17**Endangered and Threatened Wildlife and Plants; Finding on Petition to List the Spotted Frog**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding and initiation of status review.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day petition finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The petitioner presented substantial information that listing the spotted frog (*Rana pretiosa*) may be warranted.

DATES: The finding announced in this notice was made on September 7, 1989. Comments and information for the Service's use in issuing its 12-month finding will be accepted until February 3, 1990.

ADDRESSES: Questions or comments concerning this finding should be sent to: Chief, Endangered Species and Environmental Contaminants, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the Service's Denver Regional Office, 134 Union Boulevard, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: Dr. James Miller (see **ADDRESSES** above) (303/236-7398 or FTS 776-7398).

SUPPLEMENTARY INFORMATION:**Background**

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the U.S. Fish and Wildlife Service (Service) make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent

practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the Federal Register. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species. A status review is initiated herewith, and the Service seeks information until February 3, 1990.

The Service has received and made a 90-day finding on the following petition:

A petition dated May 1, 1989, was received from the Board of Directors of the Utah Nature Study Society on May 4, 1989. The petition requested the Service to add the spotted frog (*Rana pretiosa*) to the List of Threatened and Endangered Species.

The petitioners stated that the spotted frog has been on the decline for 30 years and consists of numerous relict populations throughout the northwest.

It was further indicated that the spotted frog's range in northwest North America extends to the islands of Alaska, throughout British Columbia, Washington, Oregon, Idaho, western Montana, western Wyoming, and scattered locations in Nevada, and Utah. They state that the spotted frog's present range in the lower 48 states is greatly reduced from its historic range. The petitioners also claim that in some locations the bullfrog (*Rana catesbeiana*), because of its predatory nature, has eliminated the spotted frog from western Oregon, northeastern Oregon, western Idaho, the intermountain region of Montana, and the Wasatch populations in Utah. They also indicate that the three desert populations (Tule Valley, Snake Valley, and Deep Creek) are surviving; however, the Snake Valley population is threatened by an expanding population of the leopard frog (*Rana pipiens*).

The petitioners further stated that the spotted frog is a highly aquatic species which utilizes cold permanent water and the cold water portions of warm water springs. They concluded that spotted frog breeding requirements include the

peripheral portion of permanent water sources in which the temperature fluctuations are maximum for the particular water source. Water sources include slow flowing streams, backwaters of major rivers, springs, and wetlands. The petitioners also indicated that the species is not protected by Federal and State laws and regulations. And finally, they state that the spotted frog is threatened due to the introduction of exotic species into wetlands, springs, and riparian habitats, and that water development projects have also impacted the species.

A preliminary review by the Service indicates that the spotted frog is doing well in western Montana and Wyoming. The species appears to be on the decline in Idaho, Nevada, Oregon, Utah and Washington. No preliminary determination could be made as to whether the spotted frog populations in southeast Alaska are increasing, stable, or declining.

After a review of the petition, accompanying documentation, and references cited therein and additional information obtained, the Service found the petition presented substantial information that the requested action may be warranted. Within one year from the date the petition was received, a finding as to whether the petitioned action is warranted is required by section 4(b)(3)(B) of the Act.

Author

This notice was prepared by Dr. James L. Miller (see **ADDRESSES** above).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: October 3, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-24374 Filed 10-16-89; 8:45 am]

BILLING CODE 4310-55-M